IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH

JUDGMENT

Narendra Singh Rathore Vs. Rajasthan State Textbook Board & Another
(D.B. Civil Special Appeal No.81/1995)

D. B. Civil Special Appeal under Sec.18 of the Rajasthan High Court Ordinance against the order dated 28-9-1994 in SB Civil Writ Petition No.4417/1994.

Date of Judgment: January 17, 2007.

PRESENT

HON'BLE MR. JUSTICE SHIV KUMAR SHARMA
HON'BLE MR. JUSTICE R.S.CHAUHAN

Mr. Kapil Mathur, for the appellant.

Mr. M.L.Goyal, Addl.Govt.Advocate, for respondents.

BY THE COURT: (Oral)

Challenge in the instant appeal is to the order dated September 28, 1994 whereby learned Single Judge dismissed the writ petition preferred by appellant holding that despite full opportunity to the appellant he did not submit his reply therefore it is not open for him now to complain about the validity of the orders.

2. Contextual facts depict that the appellant was appointed as Lower Division Clerk on May 24, 1976 in Rajasthan State Text Book Board (for short `Board'), subsequently he was promoted as Upper Division Clerk on May 1, 1980 and as Office Assistant in 1985. Vide order dated May 7, 1993 the appellant was transferred to Book Distribution Depot Dholpur. The appellant submitted that he was transferred under the control of a person of his rank and status, no post of Office Assistant existed at Dholpur and since climate of Dholpur did not suit to him he fell ill, the Doctor advised him

complete rest and he went on leave on May 23, 1993. The application made by the appellant for leave was rejected. Another letter was sent by him on August 4, 1993 informing about his inability to resume duty on account of illness. Since the appellant failed to produce certificate of Doctor about his illness the order September 26, 1993 was passed and his services were forfeited. Since the appellant's pay was wrongly fixed, vide order dated May 22, 1993 he was given seven day's time to file reply as to why his pay may not be reduced and why the excess amount which has been on account of incorrect fixation may not be recovered from him. The appellant did not file reply and the order dated June 3, 1993 was passed for recovery of Rs.14,819/- at the rate of Rs.1100/- per month.

3. We have heard rival submissions and scanned the material on record.

4. Having scanned the material on record, we notice that full opportunity was given to appellant to file reply but he failed to file the same, therefore learned Single Judge has rightly held that it was not open for him now to complain about the validity of the orders. Since the appellant failed to challenge the order of wrong fixation of salary the deduction had rightly been made. Learned Single Judge, in our opinion, has correctly held that there was no violation of the principles of natural justice.

5. For the reasons mentioned above, we find no merit in the instant appeal and the same stands dismissed without any order as to costs.

(R.S.Chauhan),J. (Shiv Kumar Sharma)J.

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